

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION**

**No. 7:22-cv-78**

ARCH SPECIALTY INSURANCE  
COMPANY,

Plaintiff,

v.

FERSTER ELECTRIC, LLC; MATTHEW  
FERSTER; ROBERT FERSTER; JUSTIN  
SPIVEY; TRAVIS REED SUGGS; PAMELA  
SUGGS; KELLI S. BARNES AND  
CHRISTOPHER C. SMITH,  
ADMINISTRATORS OF THE ESTATE OF  
GARRETT SMITH; JAN BRITT LYNN,  
ADMINISTRATOR OF THE ESTATE OF  
MEGAN ALLISON LYNN; AND MADISYN  
ELIZABETH REYNOLDS,  
ADMINISTRATOR OF THE ESTATE OF  
JENNIFER ELIZABETH HAYES,

Defendants.

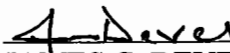
**ORDER**

THIS CAUSE COMES BEFORE THE COURT on the Motion to Dismiss Counterclaims (Directed to All Pending Counterclaims #33, #35, and #38) of Plaintiff Arch Specialty Insurance Company ("Plaintiff") [DE: #45]. This motion is now fully briefed.

In its reply to the Defendant-Counterclaimants' response to the motion to dismiss [DE: #65], Plaintiff informs the Court of new procedural facts which may alter or affect the nature of its arguments set forth in its original motion. As such, Plaintiff requests in that reply that this Court deny its motion without prejudice in light of the new procedural facts referenced therein.

IT APPEARING TO THE COURT that Plaintiff's request is meritorious, this Court DENIES the Motion to Dismiss Counterclaims (Directed to All Pending Counterclaims #33, #35, and #38) without prejudice and ORDERS that pursuant to Federal Rule of Civil Procedure 12(a)(4)(A) Plaintiff shall serve its answers to the Counterclaims [DE: #33, #35, and #38] within fourteen (14) days of the date of this Order.

SO ORDERED. This 5 day of January, 2023.

  
JAMES C. DEVER III  
United States District Judge